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7 *Attorneys for Plaintiff Kathleen Ganley*

8 IN THE UNITED STATES DISTRICT COURT

9 DISTRICT OF ARIZONA

10 Kathleen Ganley, a single woman,

11 Plaintiff

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18 Plaintiff Kathleen Ganley, by and through counsel, for her Complaint against Defendant
19 alleges;

20 **JURISDICTION AND VENUE**

21 1. This is an action against Defendant Arizona Board of Regents [“ABOR”] to
22 remedy discrimination and retaliation on the basis of disability/impairment in violation of
23 Section 504 of the Rehabilitation Act of 1973. 29 U.S.C. § 701 *et seq.* (“Rehabilitation Act”)
24 to correct unlawful employment practices on the basis of disability to vindicate Plaintiff’s
25 rights, and to make her whole.

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 as this
matter involves a federal question under the Rehabilitation Act.

3 3. The unlawful employment practices described herein were committed within
4 Maricopa County, State of Arizona. Accordingly, venue in this Court is proper pursuant to
5 28 U.S.C. § 1331(b).

PARTIES

7 4. Plaintiff Kathleen Ganley (hereinafter "Plaintiff" or "Plaintiff Ganley") is a
8 single woman and at all times relevant herein resided in Maricopa County, State of Arizona.

9 5. Defendant ABOR is a public entity and the governing entity of Northern
10 Arizona University [“NAU”].

11 | 6. Defendant ABOR is an employer subject to the Rehabilitation Act.

BACKGROUND

13 7. Plaintiff began working for NAU in 2006 as an Assistant Professor of Physical
14 Therapy, College of Health and Human Services.

15 8. Throughout her employment with NAU, Plaintiff consistently earned the
16 highest annual review ranking, "highly meritorious."

17 9. Plaintiff was promoted to Associate Professor in 2011 and to full Professor in
18 2018.

19 10. In 2017, Plaintiff began having movement impairments that were quite
20 observable. From that time forward, Dr. Patricia Pohl, the Department Chair and my client's
21 supervisor at the time, began treating Plaintiff Ganley differently compared to Plaintiff
22 Ganley's non-disabled peers.

23 11. From 2017 to the spring of 2020, Plaintiff Ganley was subjected to ongoing
24 discrimination, harassment, and retaliation due to her disability, which ultimately led to her
25 discriminatory/retaliatory demotion in 2020 from her Associate Dean position, which had

1 negative effects on her health and finances (i.e. reductions in her contract duration and
2 compensation.

3 12. With regard to specific acts leading up to the events of 2020, Plaintiff Ganley
4 experienced the following:

5 13. In early 2018, Plaintiff Ganley first notified Human Resources/Equity and
6 Access Office (“EAO”) of her disability and discussed a very simple accommodation for
7 her disability that she simply be able to close her door during work hours when was
8 distracted by the staff and faculty’s noise in neighboring offices during excessively noisy
9 times which would assist with her disability.

10 14. Later, Dr. Pohl told Plaintiff Ganley that her door needed to be open unless
11 she was on a call or in a meeting. Dr. Pohl refused the accommodation request and shared
12 this with EAO's Assistant Vice President, Priscilla Mills, who then followed-up with
13 Plaintiff Ganley. She told Plaintiff Ganley that if she formally requested an accommodation
14 to work with her door closed, it would likely be denied.

15 15. Plaintiff Ganley’s colleague, Dr. Meghan Warren and Plaintiff Ganley were
16 considered for full Professor in 2018. Because they met the required criteria, both Dr.
17 Warren and Plaintiff Ganley decided not to request letters of recommendation from
18 reviewers external to the university, which are described as “optional” in the Faculty
19 Handbook. With no explanation, Dr. Pohl required external letters of recommendation in
20 support for Plaintiff Ganley’s application but did not require the same from Dr. Warren even
21 though there was no evidence that Plaintiff Ganley’s application would have been viewed
22 unfavorably without the letters.

23 16. During 2018 Plaintiff Ganley applied for the Associate Dean of Health and
24 Human Services position, to remove herself from Dr. Pohl’s direct supervision. Dr. Pohl
25 was a member of the search committee and fought to keep Plaintiff Ganley from getting the
26 position. Even though Plaintiff Ganley ultimately earned the Associate Dean position, Dr.

1 Pohl expressed her disapproval of Plaintiff Ganley to her new supervisor and the other
2 department chairs.

3 17. From 2018 to 2020 Plaintiff Ganley learned that Dr. Pohl shared false
4 accusations about Plaintiff Ganley, shared information about Plaintiff Ganley's disability
5 and medical condition, and discredited Plaintiff Ganley's reputation to her peers and Dean
6 Lynda Ransdell, who Plaintiff Ganley reported to:

7 18. In February 2020, Dr. Pohl reported to Dean Lynda Ransdell and alleged
8 Plaintiff Ganley's improperly completed a conflict-of-interest form used to report outside
9 employment to the University. Dr. Pohl had approved the same documentation from
10 Plaintiff Ganley in each of the previous years she served as Plaintiff Ganley's primary
11 supervisor. Not only was the accusation not true, as evidenced by a comparison of Plaintiff
12 Ganley's report and federal income tax documents, it represents an issue that Dr. Pohl did
13 not challenge with other employees who had far more extensive employment and income
14 outside of the University. However, other faculty supervised by Dr. Pohl were not
15 scrutinized and criticized for admittedly violating the conflict rules.

16 19. Dr. Pohl also reported that Plaintiff Ganley was away from campus
17 excessively, without Dr. Pohl knowing the activities that drew Plaintiff Ganley away from
18 campus or times that Plaintiff Ganley had requested and received time off from her
19 supervisor. Other faculty and department chairs, including Dr. Pohl herself, did not have the
20 same expectation. No other college administrator (or physical therapy faculty) was expected
21 to report and justify any off-campus appointment/time.

22 20. Plaintiff Ganley also learned from a colleague at another university that Dr.
23 Pohl discussed Plaintiff Ganley's private and confidential health and disability information
24 with a leader of a physical therapy program outside of NAU.

25 21. NAU's former Department Chairs of the Physical Therapy department had not
26 denied support of prior sabbatical requests for eligible faculty members in over 30 years of

1 existence. Yet, Dr. Pohl would not support Plaintiff Ganley's sabbatical requests for two
2 consecutive years, even though Plaintiff Ganley had been eligible for a sabbatical for seven
3 years.

4 22. In February and March 2020, Dr. Pohl presented inaccurate and false
5 complaints/issues relating to Plaintiff Ganley's performance to Dean Ransdell as discussed
6 above. Due to Dr. Pohl's influence, Plaintiff Ganley was given the impression that her
7 attempts to discuss or refute Dr. Pohl's accusations were not welcomed by Dean Ransdell.

8 23. During this time, Plaintiff Ganley was made aware that Dr. Pohl provided a
9 number of false, negative, and unsubstantiated reports about Plaintiff Ganley to Dean
10 Ransdell starting in February 2020 and running into the spring about Mr. Ganley's job
11 performance and conflict of interest as noted above.

12 24. The continuous harassment by Dr. Pohl was extremely stressful and
13 negatively affected Plaintiff Ganley's neurological disability and mental health.

14 25. On May 5, 2020, Plaintiff Ganley began protected FMLA medical leave and
15 short term disability ("STD") due to an impending surgery.

16 26. Approximately one week into her FMLA leave, on May 13, 2020, Dean Lynda
17 Ransdell informed Plaintiff Ganley that she would no longer serve as the Associate Dean as
18 of June 3, 2020.

19 27. Plaintiff Ganley was demoted and would be required to go from a 12-month
20 to a 9-month contract and experienced a substantial pay-cut.

21 28. Plaintiff Ganley was told her position was eliminated as a cost-saving measure
22 during COVID, yet documentation demonstrates there were no other demotions, pay-cuts,
23 or job losses. Although the university's COVID-related expenses were reimbursed Plaintiff
24 Ganley would still not return to that position. A new position of Assistant Dean was created;
25 yet the posted job description is very similar to the Associate Dean position that was
26 eliminated.

1 29. Also, in the latter part of the fall semester in 2020, Dr. Amit Kumar informed
2 Plaintiff Ganley that he and other faculty asked Dr. Pohl if Plaintiff Ganley would be
3 returning to teach the following semester.

4 30. Dr. Pohl untruthfully stated that Dr. Pohl and the Program Director had
5 attempted to reach out to Plaintiff Ganley multiple times to find out that information and
6 that Plaintiff Ganley did not respond.

7 31. Plaintiff Ganley did not receive any phone call, personal or professional email
8 communications from Dr. Pohl and/or the Program Director about her returning to teach.

9 32. Dr. Pohl's disparaging comments to Plaintiff Ganley's colleagues interfered
10 with Plaintiff Ganley's ability to successfully return to a leadership position in the
11 Department.

12 33. Due to exacerbation of her symptoms, which were caused by increased stress
13 from the actions of Dr. Pohl and Ransdell, Plaintiff Ganley's Disability (STD and LTD)
14 Leave was extended, and her return-to-work date ran through the spring semester of 2021.

15 34. In early August 2021, prior to the start of the academic year, Plaintiff Ganley
16 received a letter from NAU's Office of Equity and Access ("OEA") providing Plaintiff
17 Ganley with personal information about her options relating to return to work and/or leave
18 status.

19 35. Within about one week of receiving OEA's August 2021 letter, Plaintiff
20 Ganley learned that her personal health and/or leave status information continued to be
21 inappropriately shared with NAU's faculty and staff.

22 36. During Dr. Meghan Warren's early August 2021 interview with the search
23 committee, search committee member, Dr. Valerie Carter, Clinical Professor of Physical
24 Therapy and Athletic Training, asked Dr. Warren if it was true that Plaintiff Ganley would
25 be fired if she did not return to work for the fall semester, which was personal information
26

1 provided in Plaintiff Ganley's OEA's letter as an option. Dr. Carter works under the
2 supervision of Dr. Pohl.

3 37. Besides Plaintiff Ganley, only four individuals including Dr. Pohl, Todd Steen
4 (OEA), Vickie Adney (HR), and Roger Bounds (Interim Dean, College of Health and
5 Human Services) had access to the personal information in the August 2021 OEA letter to
6 Plaintiff Ganley.

7 38. Plaintiff Ganley inquired about why her personal information was
8 inappropriately being shared. Mr. Steen and Ms. Adney denied sharing the information,
9 and neither Dr. Bounds nor Dr. Pohl responded to Plaintiff Ganley. Given that Dr. Carter
10 works under the supervision of Dr. Pohl, Plaintiff Ganley believes that more than likely Dr.
11 Pohl shared Plaintiff Ganley's personal information with Dr. Carter either directly or
12 indirectly.

13 39. Dr. Pohl's continued harassment and discrimination and false accusations
14 against Plaintiff Ganley caused Plaintiff Ganley great stress resulting in debilitating
15 depression and anxiety, requiring Plaintiff Ganley to seek medical health care, and also
16 factored into Plaintiff Ganley declining certain treatments that could make her very tired
17 and cause her to be away from work due to the fear that Plaintiff Ganley would be further
18 discriminated against.

COUNT ONE

VIOLATION OF THE REHABILITATION ACT

21 40. By reference hereto, Plaintiff hereby incorporates all prior paragraphs as if
22 fully alleged herein.

23 41. At all times relevant hereto, Defendant ABOR has been subject to the
24 requirements of the Rehabilitation Act, as the ABOR and NAU receive and utilize federal
25 funding.

1 42. At all times relevant hereto, Plaintiff was an employee with a
2 disability/impairment as defined under the Rehabilitation Act or she was regarded as a
3 person with an impairment as defined by the statute and was able to perform her duties with
4 an accommodation.

5 43. Prior to 2016, when Plaintiff began to show outward signs of her disability,
6 Plaintiff disclosing her disability to her supervisor, and Plaintiff requesting an
7 accommodation, Plaintiff had not been subjected to harassment and criticism from her then
8 supervisor.

9 44. However, following the disclosure, Plaintiff was subjected to harassment and
10 differing treatment when compared to similarly situated non-disabled colleagues as set forth
11 above.

12 45. Subsequently, based on the acts of her supervisor (current and former),
13 Plaintiff was removed/demoted from her position as Associate Dean.

14 46. The reason for the removal of Plaintiff was merely a pretext.

15 47. Consequently, Plaintiff was discriminated against and harassed due to her
16 disability and for asserting her rights under the Rehabilitation Act.

17 48. Defendant's actions were a willful violation of Section 504 of the
18 Rehabilitation Act.

19 49. As a direct and proximate result of Defendant's intentional discrimination,
20 Plaintiff has sustained economic damages in the form of loss of wages and the value of job
21 benefits in an amount to be proven at trial.

22 50. In addition, Defendant's actions have caused, continue to cause, and will
23 cause Plaintiff to suffer damages for emotional distress, mental anguish, loss of enjoyment
24 of life, damage to her reputation due to her demotion/removal, and other non-pecuniary
25 losses all in an amount to be proven at trial.

26

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

1. For General and Special damages to be proven at trial;
2. For compensatory damages relating to emotional distress as proven at trial;
3. For reasonable attorneys' fees and costs; and
4. For such other relief, the Court deems appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial.

DATED this 28th day of January, 2022.

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